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September 23, 2010

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VIA EMAIL AND US MAIL

Thomas C. Nash, Esq.
Office of the Regional Counsel
Region V
United States Environmental Protection
Agency
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Mr. Nash:

I am writing on behalf of the performing Respondents for the South Dayton Dump and Landfill Site located in Moraine, Ohio (the Site). Respondents are the three viable parties which agreed to perform the work pursuant to the Administrative Settlement Agreement and Order on Consent (ASAOC). These parties are: Kelsey-Hayes, NCR and Illinois Tool Works Inc ("Respondents")¹. As you may recall, other parties received notice letters, including Delphi Automotive, General Motors, Waste Management, and Dayton Power and Light. Neither Waste Management nor Dayton Power and Light agreed to execute the ASAOC despite significant, reliable nexus information linking them to the Site. Delphi did not because of its bankruptcy proceedings. General Motors, which did execute the ASAOC, subsequently filed for bankruptcy and thus is no longer a performing party.

The Respondents' technical consultant, Conestoga-Rovers & Associates, has sent a separate letter (attached) dated September 17, 2010, to Karen Cibulskis, the Remedial Project Manager for the Site setting forth our latest effort to find a compromise position that allows the parties to move forward cooperatively to complete the ASAOC work. Respondents believe that the opportunity remains for the Respondents and the EPA to work in good faith to reach a mutually agreeable path forward consistent with the ASAOC.

With that said, Respondents write separately to you to raise serious legal and equitable concerns regarding this Site. Those concerns are as follows:

¹ Site owners Grillo and Boesch, also signatories to the ASAOC, made a contribution toward investigative cost, but are not participating further financially under an agreement with the remaining performing parties and EPA.

1. EPA's approach would violate the ASAOC;
2. EPA's approach would violate the National Contingency Plan and is not supported by the Administrative Record;
3. There is no data or newly discovered Site information that supports expansion of the presumptive remedy area under the "additional work" provisions of the ASAOC; and
4. EPA's dealings with the Respondents have lacked fundamental fairness, transparency and reasonableness.

Each of these concerns is discussed separately below.

EPA's Approach Would Violate the ASAOC

The Statement of Work (SOW), incorporated into the ASAOC, divides the Site into two parts for the purpose of remedy evaluation. Under the SOW, the central landfill area is to be addressed through the use of a presumptive remedy "... to address the potential risk from direct contact with the landfill contents ... Respondents and U.S. EPA agree that the presumptive remedy to address the direct contact risks in this area shall be containment (i.e. a landfill cap)." *SOW* (2006). For the remainder of the Site the SOW requires "... a conventional (i.e. not streamlined) RI/FS, risk assessment and ecological assessment consistent with the requirements of the SOW for all Site areas and/or media not addressed by the Presumptive Remedy approach above. ... " *Id.* The SOW further states that "The **Respondents** may, at any time, propose to expand the area identified on Figure 3-1 based on data collected during the RI". *Id.* (emphasis added)

The SOW specifically identifies the work to be done as part of the conventional RI, including: investigation of landfill material outside the presumptive remedy direct contact area and landfill material, surface and subsurface soil and hot spots, groundwater, leachate, landfill gas, soil vapor, surface water and sediment *within and outside* the Presumptive Remedy Area. Thus, the ASAOC and SOW clearly limit the application of the presumptive remedy to the direct contact risks area in the central part of the landfill, and limit it solely to direct contact risk from landfilled materials. As part of its investigation, CRA determined that the risk area for direct contact extended beyond the central landfill area, and consistent with the requirements of the ASAOC, the Respondents proposed including the expanded area in the streamlined Operable Unit 1 Feasibility Study (OU1 FS) for purposes of capping.

EPA now is attempting go beyond the agreement in the ASAOC by applying the presumptive remedy to most of the Site and to other media, not just the direct contact area. This

is not what the EPA and the Respondents agreed to in the ASAOC, and there is nothing in the data that indicates that this is appropriate or warranted.

Respondents find themselves today, after significant work and spending over \$3,000,000, in the exact same position we were two years ago after the Respondents submitted their draft work plan for conducting the streamlined RI and FS for the Site under the ASAOC. EPA took a full year to review that draft and provided over 300 comments. During that year, EPA never contacted the Respondents or made any effort to negotiate, clarify or otherwise address or resolve the EPA issues with the work plan. In subsequent discussions, EPA through its RPM stated that in its opinion we could never submit a work plan it could approve. EPA made this statement without any effort to negotiate or otherwise work with Respondents to resolve differences. Regrettably, the Respondents did not realize it then but now can only conclude that the actual message from EPA was that it would not approve anything that did not support the application of a presumptive remedy to all media for nearly the entire Site despite the specific requirements in the ASAOC.

This belief is further supported by the fact that EPA refused to review Respondents' Risk Assessment (RA), and provided comments on the FS before reviewing the RI. EPA's response conveys its intent to continue on its course of forcing a Site-wide presumptive remedy in direct violation of the terms of the ASAOC, without data to establish that such a remedy is appropriate or warranted. This work is well beyond what the Respondents agreed to do for the streamlined RI/FS.

EPA's Approach Would Violate the National Contingency Plan and Is Not Supported by the Administrative Record

Throughout this process, EPA and Ohio EPA have selectively referenced historic information and Site data to support their view of the Site while consistently ignoring or dismissing substantial contrary information including data generated through the RI/FS process. One example is EPA's reliance on an undated tax map with hand drawn hash marks and the comment "fill area". It is unclear if this map was part of a permit application showing intended fill areas or some other document, but without context it is of little or no evidentiary value. In fact, confirmed Site investigative work demonstrate that there is no historic or data evidence to establish that putrescible or other municipal solid wastes were disposed of outside of the central 33 acres of the Site, except as already delineated in the streamlined RI/FS. In the early years of operation of the landfill, many of these terms did not have the same meaning as is now ascribed, and thus much of the historic information is subject to interpretation. Sample data have confirmed the location of the "landfill" area and Respondents have proposed additional sampling to further delineate this area. The Site operators were primarily interested in receiving materials that had salvage value or that were suitable for use as fill to bring the Site up to the surrounding grade and permit the construction of businesses, further supporting the belief that general household wastes were not typically disposed of at the Site.

Even if some of these wastes were disposed of at the Site, most everything that could not be salvaged was burned in the central portion of the landfill. Based on visual observations made during intrusive sampling activities at more than 120 individual locations across the Site, the visual identification of the types of waste present in each area corresponds well to the historical records and indicates that the majority of the material placed at the Site was inert fill, residual waste, and construction and demolition debris.

EPA is using the term "landfill materials" to describe virtually anything that is not native soil², the implication being that any non-native materials or contaminants must be part of a MSW landfill and, therefore, subject to the presumptive remedy approach. For the reasons stated above, this position is unreasonable, unsupported, and is inconsistent with the terms the parties negotiated and memorialized in the ASAOC. Most of the fill material is localized in the northern parcels, which appear to have been filled prior to the mid-1950s. Further, the majority of the combustible material accepted at the Site was reportedly burned leaving mainly inert ash and non-combustible materials in the landfill. The non-combustible material that CRA observed in the test pits and boreholes installed during the RI consisted of tin cans, broken dishes, newspapers, and glass. The National Contingency Plan (NCP) requires EPA to evaluate data and risks against an established set of criteria to determine an appropriate remedy. It does not provide for remedy selection based on inference.

EPA selected aerial photos and interpreted them to support its contention that MSW material is spread over the entire Site. The Respondents' consultants reviewed the same aerials and have reached entirely different conclusions. Respondents performed a RA as required under the ASAOC. EPA refuses to comment on or acknowledge the RA, alleging it is based on insufficient data. EPA has not identified what additional data it requires or otherwise provided any substantive comments on the RA. Despite this, EPA has selected certain information from the RA to support expanding the presumptive remedy area well beyond the central portion of the landfill. Again, EPA is ignoring the preponderance of the data necessary to evaluate site risks and make a remedy decision.

The NCP requires the consideration of nine criteria when selecting a remedy for a Superfund site.³ The NCP indicates a preference for remedies that "eliminate, reduce or control risks to human health and the environment." 40 CFR part 300.430(a). Furthermore, "EPA expects to use treatment to address the principal threats posed by a site, wherever practicable."

² Note that much of the landfill came about as the result of gravel and sand mining operations, so there would be very little that could be described as "native" soils left in the central landfill portions of the Site.

³ These criteria are: overall protection of human health and environment; compliance with applicable or relevant and appropriate requirements (ARARs); long-term effectiveness and permanence; reduction of toxicity, mobility or volume through treatment, short-term effectiveness; implementability; cost; state acceptance; and community acceptance. See 40 CFR part 300.

40 CFR part 300.430(a)(1)(A). The NCP also requires consideration of effectiveness of the remedy at reducing toxicity, mobility or volume through treatment; implementability, which requires consideration of technical feasibility; costs of construction and long term oversight and maintenance. "Costs that are grossly excessive compared to the overall effectiveness of alternatives may be considered as one of several factors used to eliminate alternatives". 40 CFR part 300.430(e)(7).

Extending the presumptive remedy beyond the direct contact risk area in the central portion of the landfill, and to other media, specifically groundwater, fails to meet the requirements of the NCP. The costs of groundwater containment at this Site would far outweigh any potential benefit, especially where it is unclear whether there is an associated risk from groundwater. Moreover, Respondents have expressed a willingness to investigate groundwater contamination source areas and if necessary address those areas through in-situ treatment prior to completing the remaining OU2 RI and FS. This approach has been rejected, and EPA has clearly expressed its preference for groundwater containment as part of the presumptive remedy in violation of the ASAOC and in contravention of the requirements of the NCP. In any event, a decision regarding the applicability or appropriateness of groundwater containment as a remedy is properly reserved until completion of the conventional RI/FS.

There is no Data or Newly Discovered Site Information that Supports Expansion of the Presumptive Remedy Area Under the "additional work" Provisions of the ASAOC

Respondents have discovered no significant Site risks (other than that which is reflected by the expanded direct contact area) that support requiring an expansion of the application of the presumptive remedy to other media and otherwise beyond that agreed to under the ASAOC. In fact, under the ASAOC, our OU1 investigation for the presumptive remedy should have been limited to determining the scope of the direct contact risk in the central portion of the Site. In an effort to cooperate with EPA, Respondents did perform investigation of other media including groundwater, landfill gas and vapor intrusion. We did this as a way to understand Site risks through the conventional RI/FS process, although in many cases, the results have been ignored or selectively culled to pull out nuggets to support EPA's skewed view of the Site.

Respondents are committed to the development of a Site remedy that is protective of human health and the environment and that is cost effective. This commitment is illustrated by our offer to perform additional groundwater investigation before the implementation of the OU2 RI/FS in response to a specific concern raised by EPA regarding results from one Site well. In contrast, EPA is using the results from this one well to attempt to bootstrap a costly and questionable presumptive remedy groundwater containment element as part of the selected remedy for the streamlined RI/FS. EPA's position is unsupported by the data, unreasonable based on Site conditions, and inappropriate under the ASAOC, especially in light of Respondents prompt and pro-active response to the EPA concerns regarding MW-210. MW-210, located near the boundary of the Site, had shallow groundwater results for trichloroethylene (TCE) at

concentrations greater than the MCL. During the February 24, 2010 meeting between the Respondents and EPA, EPA expressed concern that contaminants might be migrating off-Site near MW-210 and noted that there was a potable supply well at an industrial facility to the south of MW-210⁴.

In immediate response to that concern Respondents proposed to submit an investigation work plan to determine whether contaminants at MW-210 were migrating off-Site and to confirm whether the groundwater extracted by the off-Site potable supply well was impacted by Site contaminants. Respondents submitted a proposed work plan to EPA on March 24, 2010. EPA has not provided comments on or approval of the proposed work plan.

During the June 28, 2010, meeting between the Respondents and EPA, EPA reiterated its concern about the possible off-Site migration of contaminants in the vicinity of MW-210 and expressed urgency regarding the investigation of the issue. Respondents once again offered to perform additional investigation in the vicinity of MW-210 and asked the EPA to approve the previously submitted work plan. EPA again declined, and deferred the MW-210 investigation to the OU2 RI. Now, MW-210 is being used as a basis for EPA insisting that Respondents include a presumptive remedy groundwater containment remedy in the streamlined RI/FS.

EPA's Dealings with the Respondents Have Lacked Fundamental Fairness, Transparency and Reasonableness

Respondents have attempted to reach reasonable accommodations with EPA in the face of considerable inflexibility and refusal to even consider issues raised by Respondents. We come to this as a group that has significant CERCLA experience including the investigation and remediation of multiple Superfund sites. Our Site contractor is a large and experienced company that employs engineers and other specialists in data analysis, risk assessment, remedial investigation and the technology of site remedies and has performed work at over 165 NPL Sites. All three Respondents have voluntarily participated in site cleanups across the country, often under circumstances with similar, questionable nexus information. We have worked, and continue to work, very hard to implement the ASAOC. Our consultants and technical people have undertaken additional work to address various concerns raised by EPA, but have been rebuffed time and time again, and told that our work is inadequate or otherwise unacceptable.

This inexorable march toward a completely revised Site approach began early in the process. As the work demanded by EPA expanded, Respondents level of concern increased as it became clear that EPA intended to expand of the scope of the presumptive remedy area and include other media. Despite the severe misgivings of Respondents, we continued to fund work that was clearly beyond the scope of the streamlined RI/FS and that under the ASAOC was part

⁴ The USEPA reportedly confirmed the presence of the potable supply well in October 2009 but, despite USEPA's concerns that the water produced by the potable supply well might be impacted by Site contaminants, did not collect samples from the supply well and did not advise the Respondents of USEPA's concerns until February 2010.

of the conventional RI/FS. As a group, Respondents felt it important to voice these concerns to EPA, and thus our consultants conveyed them in a letter to EPA. This letter, sent in April 17, 2008 to EPA (attached), outlined the issues and concerns arising from the intent to piggyback the entire Site into the presumptive remedy process through the use of the "additional work" provisions of the ASAOC. Respondents received no response to that letter.

There is little reliable nexus information linking the three participating Respondents to the Site. Moreover, recent case law is favorable to the Respondents regarding the ability to overcome the presumption of joint and several liability for the Site by establishing divisibility of harm by parties when allocating liability for site costs, which we believe is applicable here. Furthermore, this is a Site that operated for decades, (many years before any applicable state or federal regulations) and thus is primarily an orphan site. If there is any liability on the part of Respondents, it is an insignificant share when viewed in light of the overall operations of the landfill.

We continue to be interested in finding a resolution that allows us to perform the work required under the ASAOC without resorting to dispute resolution, or requiring EPA to pursue a litigated remedy; however, we have absolutely no confidence that such a resolution is possible in light of the history here.

We have the ability to identify, and EPA to select, a remedy that meets all the requirements of the NCP, including the preference for permanent reduction of hazardous constituents, that is protective of human health and the environment, that preserves the businesses at the Site and that is cost-effective. It is also clear that applying the presumptive remedy to the entire Site fails to meet these requirements.

We have demonstrated over the past 4 years our willingness to both cooperate and compromise, but we have not seen any tangible results from our efforts. We remain committed to performing our obligations, and request that EPA review the history of our involvement at this Site and the quality and suitability of the streamlined RI/FS submitted as it applies to the work we originally agreed to perform to address the direct contact risk in the central portion of the Site. We respectfully request that we be permitted to continue with our OU2 work plan development and investigation for all media and other areas of the Site.

As a group, the Respondents need to have confidence that these concerns will be addressed in a way that complies with the ASAOC and the requirements of CERCLA and the NCP. We are respectfully requesting that our submissions receive an appropriate technical review, and that EPA withdraw its comments on the FS that would force expansion of the presumptive remedy to more media and beyond the scope of the direct contact area. History shows us we cannot rely on assurances that our concerns will be addressed during remedial design and that if necessary an explanation of significant difference or Record of Decision

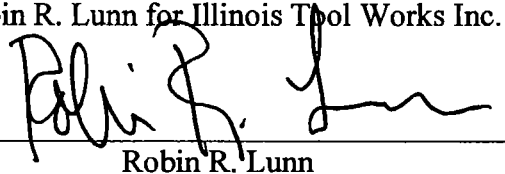
amendment will allow flexibility. In the years we have worked on this Site, we have seen no change in EPA's approach to manage this Site, despite what the data demonstrate. Thus, we respectfully request that EPA evaluate, using the appropriate standards and criteria, the streamlined FS as submitted, and allow us to scope our OU2 work plan.

The Respondents respectfully request that EPA review and respond to our alternative proposal set forth in the August 31, 2010 and the follow up September 17, 2010 CRA correspondence. In short, we are asking that EPA honor the terms of the ASAOC and permit the Respondents to address the Site under that agreement and consistent with the statute and the NCP.

Very truly yours,

Scott Blackhurst for Kelsey Hayes
Wray Blattner for NCR
Robin R. Lunn for Illinois Tool Works Inc.

By



Robin R. Lunn

RRL/dm

cc: Wendy Carney, EPA
Matt Justice, Ohio EPA
Ken Brown, ITW
Jim Campbell, EMI
Chris Athmer, Terran
Karen Mignone, Verrill Dana
Tim Hoffman, Dinsmore & Shohl
Kirk Marty, Shook, Hardy & Bacon
Karen Cibulskis, EPA

Tim Prendiville, EPA
Larry Kyte, EPA
Scott Blackhurst, Kelsey Hayes
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April 17, 2008

Reference No. 038443

Ms. Karen Cibulskis
Remedial Project Manager
United States Environmental Protection Agency - Region V
77 West Jackson Boulevard
Mail Code SR-6J
Chicago, IL 60604

Dear Ms. Cibulskis:

Re: Administrative Settlement Agreement and Order on Consent (ASAOC)
Docket Number V-W-06-C-582
South Dayton Dump and Landfill Site, Moraine, Ohio (Site)

This letter memorializes the ASAOC Respondents' understanding with respect to recent discussions and correspondence with the United States Environmental Protection Agency (USEPA). The Respondents understand that the work presently contemplated and described herein for the Site is consistent with the ASAOC for a Remedial Investigation and Feasibility Study (RI/FS) and responsive to USEPA's January 9, 2008 letter to the Respondents.

On January 10, 2008, Conestoga-Rovers & Associates (CRA) received, on behalf of the Respondents, USEPA's January 9, 2008 comments on the draft RI/FS Work Plan (CRA, January 2007). The comment letter included a Streamlined Risk Assessment (SRA) produced by USEPA, and a request that the Respondents consider an alternate approach to the RI/FS for the Site without collecting any additional data. This alternate approach included a Presumptive Remedy for the entire area within the Site boundaries. USEPA's January 9, 2008 letter also proposed defining two operable units for the Site: the on-Site Presumptive Remedy area (OU1); and the off-Site conventional RI/FS area (OU2). USEPA's letter stated that this approach was being proposed to the Respondents as "Additional Work" in accordance with Section IX of the ASAOC. USEPA's proposal is a material change from the approach agreed upon by the parties in ASAOC. The Respondents were given a minimum of 28 days to respond to USEPA's request but the January 9, 2008 letter acknowledged that the parties may agree upon a more extended and reasonable schedule to address USEPA's proposal.

On five separate occasions in January, February, and March 2008, the Respondents met with USEPA (pursuant to USEPA's agreement to meet and discuss the January 9 letter), the State of Ohio, and USEPA's contractors to discuss USEPA's proposal. As discussed in those meetings, the Respondents do not believe that a presumptive remedy can be evaluated for any portion of

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the Site without collecting additional data. While USEPA did not agree with this position, USEPA did agree to allow the Respondents to collect additional data before responding to USEPA's presumptive remedy proposal. The Respondents agreed to collect the additional data on an expedited basis, with the goal of completing the field work in calendar 2008, assuming that necessary USEPA approvals can be obtained in a timely manner. The USEPA also agreed that the work to collect the additional data would be considered to be RI/FS work under the ASAO. The Respondents understand that USEPA may require that additional RI/FS data be collected at a later date.

Over the course of the five meetings, the Respondents and the USEPA discussed the scope of the additional data collection work. The Respondents then prepared and submitted five Letter Work Plans to USEPA in March 2008. These LWP's are:

- Land Survey, Bathymetry Survey, and Geophysical Investigation Letter Work Plan (CRA, March 14, 2008);
- Leachate Seep Investigation Letter Work Plan (CRA, March 13, 2008);
- Test Pit/Test Trench Investigation Letter Work Plan (CRA, March 17, 2008);
- Landfill Gas/Soil Vapor Investigation Letter Work Plan (CRA, March 14, 2008); and
- Groundwater Letter Work Plan (CRA, March 12, 2008).

The Respondents also submitted a fieldwork schedule to USEPA on March 19, 2008 and revised versions of the Quality Assurance Project Plan (on March 19, 2008), the Health and Safety Plan (on March 20, 2008), and the Field Sampling Plan (on March 28, 2008).

Following completion of the work described in the five Letter Work Plans, the Respondents will respond to USEPA's proposal to complete a "streamlined FS". The Respondents will identify which portions of the Site that the Respondents believe are appropriate for a "streamlined FS" process and which portions of the Site that the Respondents believe should follow a more traditional FS process. The parties can then discuss how best to proceed. In either circumstance, the Respondents are willing to complete the RI/FS on a reasonably different and more expedited basis than is laid out in the ASAO.

The Respondents request that USEPA confirm in writing that the meetings, submissions to USEPA, and continuing dialog are responsive to USEPA's January 9, 2008 letter and are considered to be RI/FS work in accordance with the ASAO and, once approved, the Letter

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Work Plans and associated documents (HASP, QAPP, FSP, and schedule) will become incorporated into the Scope of Work for the Site.

Please call the undersigned if you have any questions or comments.

Yours truly,

CONESTOGA-ROVERS & ASSOCIATES

Stephen M. Quigley

AL/ca/34

c.c. Matt Mankowski, USEPA (PDF)
Matt Justice, Ohio EPA (PDF)
Eric Kroger, CH2M Hill (PDF)
Scott Blackhurst, Kelsey Hayes Company (PDF)
Wray Blattner, Thompson Hine (PDF)
Ken Brown, ITW (PDF)
Jim Campbell, Engineering Management Inc. (PDF)
Tim Hoffman, Representing Kathryn Boesch and Margaret Grillo (PDF)
Paul Jack, Castle Bay (PDF)
Robin Lunn, Mayer Brown (PDF)
Roger McCready, NCR (PDF)
Karen Mignone, Pepe & Hazard (PDF)
Adam Loney, CRA (PDF)

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August 31, 2010

Reference No. 038443-89

Ms. Karen Cibulskis
Remedial Project Manager
United States Environmental Protection Agency
Region V
77 West Jackson Boulevard
Mail Code SR-6J
Chicago, IL 60604

Dear Ms. Cibulskis:

Re: Summary of Proposed Alternative Approach for Completing
the Streamlined Remedial Investigation/Feasibility Study (RI/FS)
South Dayton Dump and Landfill Site, Moraine, Ohio (Site)

Conestoga-Rovers & Associates (CRA) has prepared this letter to summarize a proposed alternative approach for completing the streamlined RI/FS for the Site. CRA has prepared this letter on behalf of the Respondents to the Administrative Settlement and Order on Consent (ASAOC) for Remedial Investigation/Feasibility Study Proceeding Under Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. SS 9604, 9607, and 9622 (United States Environmental Protection Agency [USEPA]) Docket No. V-W-06-C-852) effective August 15, 2006.

The Respondents believe that the FS submitted on May 14, 2010 satisfies the ASAOC, is consistent with the SOW, and sets forth a proposed remediation approach that is fully protective of human health and the environment. However, the Respondents offer this alternative in an effort to reach agreement with USEPA and Ohio EPA, avoid a lengthy dispute resolution process, and move this process forward.

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August 31, 2010

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Reference No. 038443-89

In their July 7, 2010 comments on the Streamlined Feasibility Study for OU1 (OU1 FS), USEPA requested that the number of options under consideration be reduced to two options¹ as follows:

- Alternative 4A: Asphalt cap around businesses, Ohio Solid Waste Cap² in central and southern portion of Site, sediment cap for Quarry Pond
- Alternative 8A: Entire Site – Ohio Solid Waste Cap (fully ARAR-compliant)

The alternatives include a landfill gas capture system and full on-Site containment or treatment of Upper Aquifer Zone groundwater.

The Respondents suggest an alternative path forward that substantially meets the intent of USEPA's proposed remedies while remaining consistent with the scope of the ASAO Statement of Work (SOW). The SOW required that the Respondents "use a Presumptive Remedy approach consistent with U.S. EPA guidance ... to address the potential risk from direct contact with the landfill contents in the central portion of the Site." The SOW stated that the remainder of the Site, including landfill gas, groundwater, and leachate, would be addressed through a conventional RI and FS.

The remedy will focus on capping the direct contact presumptive remedy area described in the SOW and areas to the north of that area where municipal solid waste (albeit, inert, non-putrescible wastes) have been identified. The southern portion of the Site (Quarry Pond and Jim City and Barnett Parcels) would be removed from OU1 and, hence, from the Presumptive Remedy process³ and be addressed as part of the conventional RI/FS for OU2.

¹ The two options put forward by USEPA are most similar to Alternatives 4 and 8 in the OU1 FS and, accordingly, have been numbered Alternatives 4A and 8A.

² Ohio Solid Waste Cap as per Ohio Administrative Code (OAC) Chapter 3745-27-08, including an 18-inch re-compacted soil barrier layer, flexible membrane liner, 12-inch drainage layer, 30-inch cap protection layer, and 6-inch vegetated topsoil layer.

³ Specifically, the USEPA presumptive remedy for municipal landfill sites as detailed in Presumptive Remedy for CERCLA Municipal Landfill Sites, EPA 540-F-93-035).



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The Respondents propose to modify USEPA's proposed alternatives for the Site as follows:

- Alternative 4B: Asphalt Cap⁴ around businesses, Ohio Solid Waste Cap in vacant central portion of the Site. Quarry Pond and Jim City/Barnett Parcels to be addressed as part of OU2
- Alternative 8B: Entire central and northern portion of Site – Ohio Solid Waste Cap (fully ARAR-compliant, with the exception of slope, which is to be negotiated).

Prior to submitting a revised FS containing these alternatives, the Respondents would like to reach agreement with USEPA on the following points:

- The Quarry Pond and the Jim City/Barnett Parcels will be addressed in OU2, as contemplated in the ASAO and SOW.
- On-Site Upper Aquifer Zone groundwater areas of concern will be addressed using in situ remedies via interim remedial action (or similar), outside of the OU1 RI/RA process. Further remedial action may be required as determined during the OU2 RI/FS.
- Remaining groundwater issues (on-Site and off-Site, Upper and Lower Aquifer Zones) addressed using conventional RI/FS approach for OU2 consistent with the ASAO SOW.
- Consistent with USEPA's suggested approach in the July 7, 2010 letter and the designs assessed in the MatConTM Innovative Technology Evaluation Report⁵, the Asphalt Cap will consist of a 4-inch thick layer of MatConTM asphalt with appropriate sub-base⁶.
- Agreement on a variance or waiver to decrease the slope of the cap from 5 percent to 1 percent.
- Agreement that an active landfill gas collection system will not be required based on investigation data and modeled results in the FS.
- Agreement on the data quality objectives governing the investigation of the southern parcels (i.e., Parcels 3252, 3274, 3275, 3753, 4423, 4610, and 5178) and the scope of the investigation required to assess the human health and ecological risks associated with direct contact with the soils and waste on this portion of the Site.
- Agreement on the data quality objectives governing the investigation of the Quarry Pond surface water and sediments and the scope of the investigation required to assess human health and ecological risks associated with the Quarry Pond surface water and sediments.

⁴ The asphalt cap would consist of a 4-inch thick layer of MatConTM Asphalt with appropriate base layer. The base layer would utilize existing granular material where available augmented with imported aggregate.

⁵ USEPA, 2003. *Evaluation of Wilder Construction Company's MatConTM Cover Technology*, EPA/540/R-03/505.

⁶ Where appropriate, the existing gravel surface materials would be used with additional granular material placed as necessary to properly support the asphalt layer.



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- Agreement on the data quality objectives governing the investigation of shallow groundwater beneath the Site and the scope of the investigation required to determine whether impacted shallow groundwater is migrating off-Site at concentrations that exceed MCLs, or in the absence of MCLs, an excess lifetime cancer risk of 1×10^{-4} or a hazard index of 1.

The layouts of the proposed alternatives are provided on Figures 1 (Alternative 8B) and 2 (Alternative 4B).

Should you have any questions on the above, please do not hesitate to contact us.

Yours truly,

CONESTOGA-ROVERS & ASSOCIATES

Stephen M. Quigley

AL/cb/90

cc: Wendy Carney, EPA
Tom Nash, EPA
Matt Justice, Ohio EPA
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September 17, 2010

Reference No. 038443-89

Ms. Karen Cibulskis
Remedial Project Manager
United States Environmental Protection Agency
Region V
77 West Jackson Boulevard
Mail Code SR-6J
Chicago, IL 60604

Dear Ms. Cibulskis:

Re: Response to USEPA Comments Dated September 10, 2010
Summary of Proposed Alternative Approach for Completing
the Streamlined Remedial Investigation/Feasibility Study (RI/FS)
South Dayton Dump and Landfill Site, Moraine, Ohio (Site)

Conestoga-Rovers & Associates (CRA) has prepared this letter in response to the United States Environmental Protection Agency's (USEPA's) September 10, 2010 letter regarding the Summary of Proposed Alternative Approach for Completing the RI/FS for the Site. CRA is writing this letter on behalf of the Respondents to the Administrative Settlement and Order on Consent (ASAO) for Remedial Investigation/Feasibility Study (RI/FS) Proceeding Under Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. SS 9604, 9607, and 9622 (United States Environmental Protection Agency [USEPA]) Docket No. V-W-06-C-852) effective August 15, 2006.

For ease of review, the USEPA's Comments are italicized followed by the Respondents' response.

USEPA Preamble

The Site areas we agree CRA may defer from OU1 to OU2, and from the streamlined OU1 FS, are:

- Lots 4610 and 3252 (Barnett)
- Lots 4423 and 3753 (Jim City); and
- Lots 3274, 3275 and 5178 (Quarry Pond), except for the eastern part of the northern Quarry Pond embankment that extends from Lot 5177 onto Lot 5178.

REGISTERED COMPANY
ISO 9001
CERTIFICATION

Worldwide Engineering, Environmental, Construction, and IT Services



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Response

The Respondents appreciate USEPA's willingness to consider addressing the southern portion of the Site (i.e., Parcels 3252, 3274, 3275, 3753, 4423, 4610, and 5178) as part of OU2, as originally contemplated in the ASAOC. The Respondents agree that where the steep embankment marking the southern edge of the disposal area extends onto Parcel 5178 (as shown approximately on the attached Figure 1), these portions of Parcel 5178 will be addressed as part of OU1.

USEPA Comment 1

EPA agrees with, and appreciates, CRA's willingness to address some areas of shallow groundwater contamination at the Site using in-situ remedies. EPA agrees these efforts may help reduce the mass of shallow groundwater contaminants; may help reduce these areas from acting as a source to deep groundwater contamination; and may obviate the need for long-term groundwater containment.

However, we think that it is reasonable to request that the OU1 FS evaluate at least two active remedial alternatives (i.e., engineered technologies), in addition to the no-action alternative, and any other alternatives CRA would like to evaluate, to prevent shallow groundwater contaminants, at a minimum, from migrating beyond the central-southeast boundary of the Site.

As discussed more fully in our July 7, 2010, OU1 FS comments, during the streamlined RI, CRA detected elevated levels of TCE and/or vinyl chloride in shallow groundwater in MW-210 north along Dryden Road to VAS-15; and west of MW-210 to approximately MW-203. TCE was also detected in off-Site shallow groundwater above Maximum Contaminant Levels (MOLs) in VAS-25 and MW-213-VAS, approximately 200 to 300 feet from MW-210 in the general southward downgradient direction of the Site. It was also detected in soil gas at GP-09 at the Site boundary, 200 feet from a residence with a basement, 550 feet southwest of MW-210 and 350 feet south of MW-203. All this shows a wide area of groundwater that is impacted by Site contamination.

In our OU1 FS comments we were trying to communicate that there is significant flexibility in the potential remedial alternatives CRA could evaluate to contain shallow groundwater in this area of the Site (approximately 1,300 linear feet). These include a variety of chemical, physical or biological technologies. Again, EPA is only requesting that CRA evaluate these alternatives in the FS. EPA will not select a final remedy for shallow OU1 groundwater until all shallow groundwater alternatives, including the no-action alternative, are evaluated in conjunction with EPA's nine evaluation criteria, in the OU1 Record of Decision (ROD).

Also, as EPA has continuously emphasized throughout the streamlined OU1 RI/FS process, EPA is willing to consider additional data collected by CRA during the remedial design (RD), if not sooner, to



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support a change in EPA's Proposed Plan or ROD, or as the basis for a ROD Amendment or Explanation of Significant Difference (ESD).

Response

The Respondents would like to reiterate their position that the ASAO Statement of Work (SOW) agreed upon between USEPA and the Respondents requires that groundwater be addressed using a conventional RI/FS approach.

The concentrations of TCE in groundwater samples collected from MW-203 have consistently been less than the MCL for TCE. The concentrations of TCE in groundwater samples collected from monitoring wells and VAS borings upgradient of GP09-09 (i.e., MW-204, MW-203, VAS-17, SD002) and in the vicinity of GP09-09 (P-211, MW-209A, MW-209, MW-212 and VAS-22) are all below the MCL for TCE.

In addition, the soil gas samples collected from GP11-09, which is hydraulically upgradient from GP09-09 and less than 50 feet from MW-210, and GP10-09 and GP08-09, which are to the northwest and southwest of GP09-09, contained concentrations of TCE that were less than the OSWER draft screening criteria.

These data indicate that, contrary to USEPA's assertion, there is not a "wide area of groundwater that is impacted by Site contamination" in this area of the Site.

The groundwater samples collected from VAS-25 and MW-213-VAS that contained TCE at concentrations that were greater than the MCLs were collected from deeper groundwater. The uppermost groundwater samples from these locations did not contain detectable concentrations of TCE. These data indicate that there is no volatilization to indoor air risk from the TCE present in groundwater at these locations and, therefore, no immediate risk to residents of the trailer park.

During the meeting between the Respondents and USEPA on February 24, 2010, the USEPA expressed concern that contaminants might be migrating off Site near MW-210 and noted that there was a potable supply well at an industrial facility to the south of MW-210¹. During the meeting, the Respondents proposed to submit an investigation work plan to determine whether contaminants present in groundwater samples collected from MW-210 were migrating off-Site and to confirm whether the groundwater extracted by the off-Site potable supply well was impacted by Site contaminants. The Respondents submitted a proposed work plan to USEPA on March 24, 2010. USEPA has not provided comments on or approval of the proposed work plan. During the June 28, 2010 meeting between the Respondents and USEPA, USEPA again

¹ Respondents understand that USEPA has not collected samples from the well.



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expressed concern about the possible off-Site migration of contaminants in the vicinity of MW-210 and noted the urgency of investigating the issue. The Respondents reiterated their commitment to complete additional investigation in the vicinity of MW-210 and asked the USEPA to approve the work plan. The USEPA declined and deferred the MW-210 investigation to be completed as part of the OU2 RI.

The Respondents remain willing to complete additional investigation in the vicinity of MW-210, as set forth in the March 24, 2010 work plan. The data to be collected during the proposed investigation will determine whether on-Site containment of Upper Aquifer Zone groundwater is necessary to protect downgradient residents and workers. Had USEPA approved the work plan in a timely manner, the investigation could be complete and the appropriate data available to assess the appropriate remedial/containment options for shallow groundwater in the FS. The Respondents reiterate their request to be allowed to collect the data necessary to make an appropriate decision with respect to Upper Aquifer Zone groundwater. The additional data are required to determine whether Upper Aquifer Zone groundwater contaminants are migrating off-Site and to identify the source and migration pathway of contaminants that may be migrating off Site in Upper Aquifer Zone groundwater. These data should be collected during the OU2 investigation prior to evaluating the need for and appropriateness of long term groundwater remedies, including containment.

USEPA Comment 2

We agree that any decision on the need for an active landfill gas collection system must be based on Site data available in the RI and/or FS. We based our request for the evaluation of at least one active LFG and soil vapor system for the Site on our understanding of the available data and Site conditions. Most importantly it was based on the fact that businesses are on top of the landfill and are currently at risk from being exposed to LFG and soil vapors, and will be at an even higher risk if the landfill is capped.

During CRA's streamlined RI, for example, TCE was detected at a maximum concentration of 56,000 ug/m3 in a shallow soil gas sample collected 50 feet from an occupied structure. Methane was also detected above the upper explosive limit of 15 percent in shallow soil gas near another on-Site structure. The methane concentration in this sample was 26 percent methane, by volume. See EPA's July 7, 2010, OU1 FS comments for a full discussion of soil gas contamination at the Site.

As explained in EPA's OU1 FS comments, we believe CRA did not collect sufficient data (e.g., systematic landfill gas sampling within 3 to 5 feet of the surface across the landfill, or subslab soil gas sampling at each on-Site structure, at multiple times of the year to evaluate any seasonal differences) to support modeling, and EPA did not approve the use of CRA's landfill gas sampling for modeling purposes (see Section 1.2.1 in the 2006 RI/FS SOW concerning modeling requirements). However, we are more than willing to work with you to develop a sampling plan that will adequately characterize the landfill gas issue.



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The City of Moraine and others have expressed a very strong interest in keeping the SDDL Site available for industrial use. As such, it is critical that any remedial action thoroughly protect potential receptors at the Site. This includes workers in buildings located on top of the landfill, as well as workers who may be exposed to vapors from VOC-contaminated shallow groundwater at the Site (e.g., the TCE concentration in groundwater in VAS-9 was 5,100 ug/L).

EPA agrees, however, that there is significant flexibility in the technologies that can be used to control LFG and soil vapors to protect current and future receptors at the Site. These may include, but are not limited to, passive venting, active venting, passive venting that can be easily converted to active venting, or a combination of technologies depending on current and potential land use (e.g., active venting in business areas; passive venting in other Site areas).

Again, the Agency cannot select a remedy for LFG and soil vapors until all potential alternatives to control LFG and soil vapor, including the no-action alternative, are evaluated in conjunction with EPA's nine evaluation criteria, in the OU1 Record of Decision (ROD). Also, as EPA has continuously emphasized throughout the streamlined OUI RI/FS process, EPA is willing to consider additional data collected by CRA during the remedial design (RD), if not sooner, to support a change in EPA's Proposed Plan or ROD, or as the basis for a ROD Amendment or Explanation of Significant Difference (ESD) at the Site.

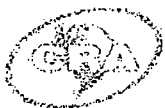
Response

The Respondents note that landfill gas was not included as part of the Presumptive Remedy approach in the ASAO SOW but was intended to be addressed through a conventional RI/FS, including a baseline risk assessment (BRA).

The USEPA requested that the Respondents propose design alternatives in the FS that include an active landfill gas collection system. USEPA justified the need for these alternatives with a discussion of VOC concentrations in soil vapor.

USEPA stated that CRA did not complete systematic sampling within 3 to 5 ft of the landfill surface. CRA is not aware of any requirement in the Ohio Administrative Code (OAC) with respect to the need for systematic sampling in the upper 5 ft of soil/waste to determine the need for an active LFG extraction system.

The drivers in the OAC for the installation of an active LFG collection and control system are twofold. First, if the landfill is modeled to generate more than 50 tons per year of non-methane organic compounds (NMOC), then an active LFG collection system is required in accordance with OAC Chapter 3745-76. Second, as per OAC 3745-27-12, if measurements taken at a soil gas probe placed between the waste and a building located outside the limits of waste or an explosive gas meter placed within a building located above waste materials (or within 200 feet



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of the waste material) indicate that unacceptable levels of explosive gas are present²; contingency measures, which could include, among other measures, the installation of an active gas extraction system or passive gas venting system, must be implemented.³

In the FS, CRA modeled the NMOC generation rate for the landfill using the approach required under OAC 3745-76. CRA conservatively assumed that the landfill accepted putrescible waste up until the landfill ceased operation in 1996. The model predicted that the NMOC generation rate would be less than 2 tons per year, which is less than the 50 ton per year threshold in OAC 3745-76. Even assuming that all of the waste ever disposed of at the landfill was putrescible waste with the potential to generate methane, the hypothetical NMOC generation rate is only 45 tons per year.

The soil gas sample collected from a probe installed near the unused building on Parcel 5054 contained methane at a concentration greater than the LEL; however, as this soil gas probe is screened in the waste, the methane concentrations measured within the soil gas probe samples are indicative of methane generation rather than migration. In the FS, CRA proposed to conduct monitoring for landfill gas as part of the remedy. Such monitoring would necessarily include the installation of explosive gas meters within buildings located above the areas where municipal solid waste is present and any other areas where landfill gas generation/migration is a concern. The monitoring proposed in the FS would ultimately determine the need for an active landfill gas extraction system as a contingency measure in the event that unacceptable levels of methane are detected.

CRA notes that soil gas probes were installed as close as practical to Site buildings in accordance with the USEPA-approved Landfill Gas and Soil Vapor Investigation Letter Work Plan. With respect to VOC concentrations in soil vapor samples, CRA notes that the risk assessment completed by CRA did not identify any risks to on-Site workers from concentrations of VOCs in the soil vapor samples. The concentration of TCE in the soil vapor sample collected from GP20-09 was more than 50 times the OSWER draft soil gas criterion for TCE, which indicates that additional soil vapor sampling and potentially sub-slab sampling are warranted. The Respondents' FS proposed to complete the additional sampling.

The soil vapor sampling results do not trigger a requirement to install an active landfill gas collection system. Should additional sampling indicate a potential risk to occupants of any on- or off-Site building, the appropriate remedy is likely to be the installation of a sub-slab venting system or vapor barrier.

² Unacceptable levels would include a combustible gas concentration greater than 100 percent of the lower explosive limit (LEL) for methane in a soil gas probe or 25 percent of the LEL within a building.

³ In a letter dated April 11, 1990, Ohio EPA informed the Site owner that based on the types of waste accepted at the landfill, the Site was "exempt from complying with the Ohio Administrative Code 3745-27-12."



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Finally, CRA reminds USEPA that the VAS samples collected from VAS-09 are screening samples and that groundwater samples collected from MW-215A, which was screened immediately above the uppermost till layer (the depth of the greatest contamination at VAS-09) and is located less than 10 feet from VAS-09, contained concentrations of TCE that were less than the MCL. The fully validated groundwater data for samples collected using low flow purging methods from permanent monitoring wells are the most appropriate data for assessing groundwater contamination.

The data collected to date in conjunction with the NMOC generation calculations completed in accordance with OAC 3745-76 are sufficient to demonstrate that an active LFG collection system is not required. Data from the future monitoring proposed in the FS and required in accordance with OAC 3745-12 will determine whether active or passive LFG venting is required in the future.

Additional data are required to determine whether vapor intrusion mitigation measures are required for individual on-site buildings. These data should be collected during the OU2 investigation following completion of the groundwater investigation, which will identify areas of groundwater contamination that could potentially provide a source of VOCs in soil vapor.

USEPA Comment 3

EPA appreciates CRA's willingness to evaluate a MatCon asphalt capping alternative in the OU1 FS. However, any capping alternatives evaluated in the FS, including a 4-inch thick layer of MatCon asphalt, must meet or exceed the OEPA municipal solid waste capping ARARs over the long term. At this point CRA has not provided information showing that the solid waste capping requirements are not ARARs, or the basis of a waiver of the requirements, but we are open to evaluating this information as part of the FS process. HELP model results could be the basis for an equivalency waiver under the NCP. We believe this is likely to be the only justification available by which this waiver could be approved. EPA will not be able to evaluate the effectiveness and equivalency of a 4-inch thick layer of MatCon asphalt until this demonstration is provided.

The MatCon Innovated Technology Report also indicates there are additional requirements for MatCon cover applications. These include:

- 1 The subgrade to receive the MatCon cover must be firm and unyielding to support compaction of the MatCon asphalt during construction.
- 2 The subgrade to receive the MatCon cover must have slopes of less than 3:1 (height:volume) for the safe use of compacting and paving equipment during installation.



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- 3 The subgrade to receive MatCon must have a slop [sic] of greater than 1.5 percent to facilitate drainage and minimize surface water ponding.
- 4 The subgrade must be constructed to a grading tolerance of plus or minus 0.5 inch.
- 5 Though heavy surface use on a MatCon cover is possible, heavy container stacking, extraordinarily heavy or repeated loads, sharp point source loading, misuse, or use of heavy tracked equipment might compromise its integrity. Such heavy surface uses must be accommodated through customized designs, formulations and construction methods. Site-specific operations and maintenance plans for each installation and the potential future surface uses will need to be prepared and reviewed by the MatCon company to confirm consistency with strict MatCon quality assurance procedures.

The OUI FS must also discuss how these requirements will be addressed at the Site based on the current and expected uses of each property to be covered with a MatCon cap.

EPA agrees that a variance will be required in areas where the slope will be less than the 5 percent slope required by OEPA ARARs. The minimum slope standard of 5 percent in Ohio Administrative Code (OAC) rule 3745-27-08 is a design standard. However, due to existing Site characteristics (e.g., age and sub-grade topography), we agree that a 5 percent slope at the SDDL Site may not be practicable. EPA and OEPA agree that an appropriate slope variance can be accommodated at the Site; however, we do not have the information to determine whether a variance is appropriate at this time.

The grade of the landfill cap is directly related to potential slope stability and surface drainage considerations. The OUI FS should explain how the various capping alternatives would be designed and constructed to accommodate the material being used, and to achieve and maintain positive drainage over the long-term. This may include the use of surface water control structures, such as ditches to control run-on and runoff, sedimentation pond(s), erosion control measures, and surface grading to achieve positive drainage and prevent water from ponding over areas where landfill materials are present. These surface water control structures, in conjunction with a stability analysis on the existing landfill materials, can then be used to form the basis for a variance to the minimum slope standard under OAC rule 3745-27-03(C) as part of the design process.

Response

CRA has modeled the performance of an asphalt cap using the HELP model and determined that any asphalt cap would provide a reduction in permeability of greater than 99 percent, which is equivalent to an Ohio solid waste cap (i.e., as detailed in OAC 3745-27-08). The HELP model results for an asphalt cap were provided in the FS and will be modified to reflect the construction details of the MatCon cap in the revised FS.

The Respondents will work with USEPA and Ohio EPA to establish the most appropriate slope for the MatCon and Ohio solid waste caps during the remedial design (RD) process.



USEPA Comment 4

EPA will work with CRA as expeditiously as possible on the data quality objectives and the scope of the OU2 investigation, following the process and guidance for conducting a conventional RI/FS. This would include a quantitative human health risk assessment and baseline ecological risk assessment for these areas, and/or Site media, consistent with the 2006 RI/FS SOW. Since OU2 is separate from OU1, however, EPA does not agree that the OU1 FS process should be delayed any further, and requests that CRA proceed with the revised OU1 FS at this time.

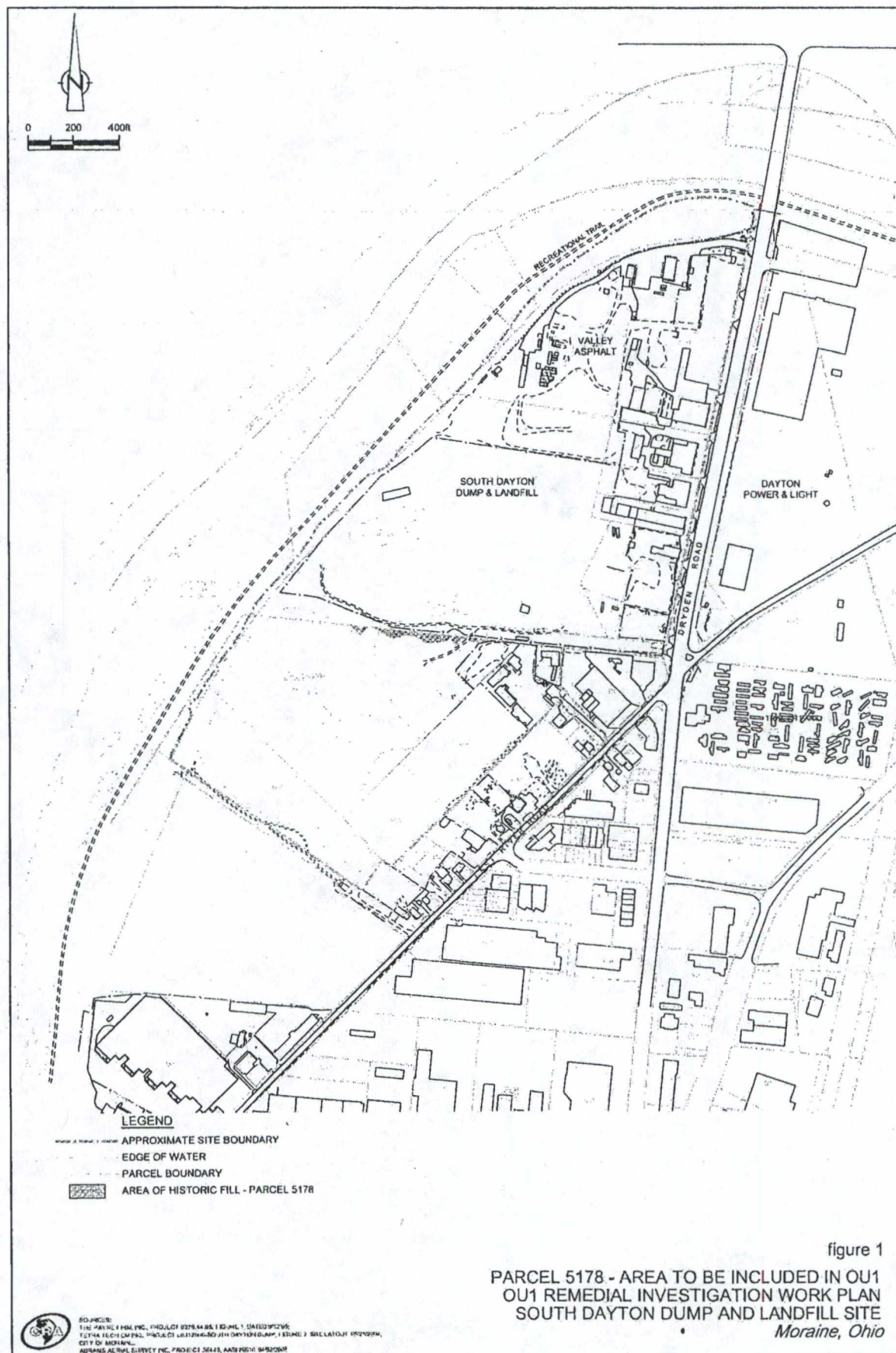
EPA would like to caution CRA, however, that CRA is now proposing to characterize large areas of the Site that EPA proposed to evaluate as a presumptive remedy as a time and cost-saving measure. For quantitative risk assessment purposes this includes characterizing approximately 15 acres of heterogeneous landfill materials up to 35 feet thick in some areas, in the southern portion of the Site; and about 15 acres of surface water and sediment in the Quarry Pond, which is up to 35 feet deep in some areas, and the island in the Quarry Pond. A quantitative risk assessment will require CRA to address all media, all pathways, and all current and potential future receptors.

Shallow groundwater that is not being actively contained as part of an OU1 remedy, or that has not been previously fully characterized, will also need to be characterized around the perimeter of the landfill during RD, if not sooner. For the RD the work will need to determine the extent of a shallow groundwater containment system (if selected as part of the OU1 ROD), and/or to develop an appropriate monitoring network for long-term monitoring. This work would be in addition to any on-Site or off-Site work already required as part of OU2.

EPA understands that the additional work and investigation required to support a conventional RI/FS and a quantitative human health and ecological risk assessment can become very costly. However, EPA is willing to allow CRA the additional time to conduct this work, since, through this work, CRA may be able to demonstrate that these areas of the Site and/or media do not pose a risk to human health and the environment and would not require remedial action.

Response

Given the disagreements that have developed after execution of the existing ASAO, and USEPA's own words of "caution" concerning implementation of a conventional RI/FS in the southern parcel, the Respondents are reluctant to proceed with the submission of a revised OU1 FS without an agreed-upon scope for the OU2 RI/FS. The Respondents propose to submit the OU2 RI/FS Work Plan within 45 days of reaching agreement with USEPA on the above issues and believe that the OU2 RI/FS scope could be finalized within three to six months provided both sides work expeditiously in good faith (and the Respondents are confident all parties can and will do so). The Respondents feel that the resulting delay in the submission of the revised





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OU1 FS is warranted in these circumstances, and will help the parties avoid future delays associated with potential disagreements over the scope of the OU2 RI/FS.⁴

Should you have any questions on the above, please do not hesitate to contact us.

Yours truly,

CONESTOGA-ROVERS & ASSOCIATES

Stephen M. Quigley

AL/cā/92
Encl.

cc: Wendy Carney, EPA
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Chris Athmer, Terran
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Brock Wanless, ITW

⁴ The Respondents do not view three to six additional months as unreasonable given the importance of this subject and the fact that 19 years elapsed between the time of Ohio EPA's initial investigation of the Site in 1985, and USEPA proposing the Site for listing on the National Priorities List (NPL) in 2004.